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**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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American Transmission Company LLC and	:	
ATC Management Inc.	:	
	:	
Petition for Declaratory Ruling that Section 7-101	:	01-0607
Is not applicable to American Transmission	:	
Company's Agreements with Wisconsin Public	:	
Utilities.	:	

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***REPLY BRIEF ON EXCEPTIONS OF THE STAFF  
OF THE ILLINOIS COMMERCE COMMISSION***

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**JOHN C. FEELEY  
LINDA M. BUELL  
Office of General Counsel  
Illinois Commerce Commission**

**Counsel for the Staff of the  
Illinois Commerce Commission**

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*May 3, 2002*

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**NOW COMES** the Staff of the Illinois Commerce Commission (“Staff”) and pursuant to Section 200.830 of the Illinois Commerce Commission (“Commission”) Rules of Practice (83 Ill. Adm. Code 200.830), respectfully submits this Reply Brief on Exceptions to the Brief on Exceptions (“BOE”) filed on April 19, 2002, by American Transmission Company, LLC and ATC Management, Inc. (collectively “ATC”).

Staff is opposed to all the exceptions taken and arguments made by ATC in its BOE. First, ATC states that “[t]he Proposed Order appropriately concludes that ATC may reduce its regulatory burden by not being required to seek approval from the Commission for specific contracts which have no effect in Illinois.” (ATC BOE at 1.) Staff disagrees. As Staff has argued in both its Response and BOE, Section 7-101(3) of the Public Utilities Act (“Act”), 220 ILCS 5/7-101(3), and case law require public utilities to obtain Commission approval for any contract with an affiliated interest. (Staff Response at 2-4; Staff BOE at 2.) Staff maintains that the focus on ATC’s so-called “regulatory burden” is misplaced. The Commission has a duty to the public and a responsibility given to it by the legislature to review all affiliate agreements. An exception must not be granted simply because it is too much work for a petitioner seeking a certificate of convenience and necessity under the Act to provide copies of documents to the Commission. In fact, Staff has the even greater “burden” of reviewing each affiliate agreement that ATC submits and Staff has not objected to this task. Staff took exception to this language in its BOE and continues to recommend striking this language from the Proposed Order. (Staff BOE at 4.)

ATC next takes exception to “the Proposed Order’s conclusion that the Commission, as a matter of policy, has a duty to review all non-exempt affiliated interest contracts that will impact the people or property in Illinois, even if ATC entered into these contracts before it became an Illinois public utility.” (ATC BOE at 1.) Staff disagrees with ATC and consequently agrees with the Proposed Order. As argued in its Response, BOE and as stated above, the Commission has a duty under Section 7-101 of the Act to review all non-exempt affiliated interest contracts. Staff recognizes that other agencies have reviewed ATC’s affiliate agreements, however, these reviews do not extinguish the Commission’s mandate under the Act. In addition, since pre-existing contracts will remain in effect after ATC becomes a public utility, these agreements should undergo Illinois scrutiny as well. Staff has previously argued that permitting pre-existing contracts to pass without Commission scrutiny would create an incentive for an entity contemplating certification to enter into its affiliate contracts prior to becoming a utility. (Staff Response at 4.)

**WHEREFORE**, for the reasons set forth, the Staff of the Illinois Commerce Commission respectfully requests that the modifications set forth in Staff's April 19, 2002 Brief on Exceptions to the Administrative Law Judge's Proposed Order be adopted and that the modifications set forth in ATC's Brief on Exceptions be rejected.

Respectfully submitted,

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JOHN C. FEELEY  
LINDA M. BUELL  
Office of General Counsel  
Illinois Commerce Commission

May 3, 2002

Counsel for the Staff of the  
Illinois Commerce Commission